IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2006

CORAM:

THE HON'BLE MR. JUSTICE P. JYOTHIMANI

W.P.No.19817 of 2006

and

M.P.No.1 of 2006

Thangammal .. Petitioner

-vs-

1. The Secretary to Government
School Education Department,
Fort St.George,
Chennai 9 .

2. The Director of Elementary Education,
Chennai - 6.

3. The District Elementary Educational Officer,
Tirunelveli.

4. The Assistant Educational Officer,
Kuruvikulam, Tirunelveli District. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of writ of mandamus to direct the respondents to sanction family pension to the petitioner in terms of the Government orders in G.O.M.S.No.37 Education Science and Technology, dated 5.1.83 and in G.O.M.S.No.288 Education (U2) Dept. dated 1.3.1988 w.e.f. 5.6.81 and further direct to pay the arrears of family pension.

For Petitioner : Mr.S.Kamadevan
For Respondents : Mr.Gopi Raja,G.A.

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O R D E R

This writ petition is filed for direction against the respondents to sanction family pension to the petitioner in terms of the Government orders in G.O.M.S.No.37 Education Science and Technology, dated 05.01.1983 and G.O.M.S.No.288 Education (U2) Dept. dated 01.03.1988 with effect from 05.06.1981.

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2. The husband of the petitioner, having worked as a teacher in a Government Aided School, has relinquished service with effect from 03.01.1963 and subsequently, he died on 25.10.1979. The wife of the deceased teacher has approached the respondents for family pension. The guide-lines relating to pension are covered under G.O.M.S.No.37 dated 05.01.1983 and G.O.M.S.No.288 dated 01.03.1988. In the said G.O.M.S.No.37, for which clarification was issued, clearly states that even a teaching staff who worked in an Aided School who has resigned from service prior to the crucial date, is entitled for pensionary benefits. The subsequent G.O.M.S.No.288 dated 01.03.1988 which was issued after re-examination of the previous guide lines regarding resignation of teaching and non-teaching staff states that in respect of cases where the teaching and non-teaching staff have resigned, the family pension is allowable from 05.06.1981. The said Government Order came to be considered by a Division Bench of this Court in the case of The Government of Tamil Nadu, rep. by the Secretary, Department of Education, Madras - 9 and another vs. S.V.Paul Jeyaraj in Writ Appeal No.606 of 2001 dated 27.07.2001. The Division Bench has considered the said G.O.M.S.No.37 dated 05.01.1983 and has categorically held that by virtue of the said Government Order, even a teacher who has resigned after the crucial date is entitled for sanction of pension by the respective authorities who are competent to sanction the same without specific orders from the higher authorities or from the Government. The Division Bench has further held that the terms of the Government Order and the language used therein are very clear and cannot be misinterpreted by any one and accordingly, a concession was given under the Government Order even to a person who has resigned earlier to the institution of the Pension Scheme. In view of the catergorical legal position regarding the said Government Order, there is absolutely no reason on the part of the respondents in not sanctioning Family Pension to the petitioner, whose husband died on 25.10.1979 and till date, no family pension has been sanctioned, which is certainly an alarming situation, which cannot be accepted in any human sense.

3. Learned Government Advocate would submit that the delay was due to the reason that there was some mistake regarding certain matters which is mentioned in G.O.M.S.No.37 and in view of that, the family pension proposals of the petitioner could not be completed. On the other hand, the learned Government Advocate would fairly submit that after the judgment of the Division Bench of this Court as stated above, the interpretation as the said Government Order has come to an end and therefore, there is no other go than paying pension to the petitioner in respect of the service rendered by her husband, who is stated to have rendered more than 22 years of service in the Education Department. In view of the same, the writ petition stands allowed and the second respondent is directed to sanction family

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pension due to the petitioner in terms of G.O.M.S.No.37 Education Department, Science and Technology, dated 05.01.1983 and G.O.M.S.No.288 Education (U2) Department. dated 01.03.1988 with effect from 05.06.1981 within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

gms

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government
School Education Department,
Fort St.George,
Chennai 9.

2. The Director of Elementary Education,
Chennai - 6.

3. The District Elementary Educational Officer,
Tirunelveli.

4. The Assistant Educational Officer,
Kuruvikulam, Tirunelveli District.

+ one cc to Mr.S.Kamadevan, Advocate Sr.No.35801.

TR (CO)
RSM/19.8.2006

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